IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 87 OF 2005

IN

APPEAL FROM ORDER NO.100 OF 2005

Mr. Rajesh Ashok Kangokar & Ors. ... Appellants

V/s

Mr. Devendra Pandey & Anr. ... Respondents

Mrs. Sunedha Rao for appellants

Coram : A. S. Oka, J.

Date : 8th February,2005

P.C.

1 Heard the learned counsel appearing for the Appellant. By the impugned order dated 21th December2004, the learned trial judge has held that the City Civil Court at Mumbai has no territorial jurisdiction to take cognizance of the suit filed by the Appellant. In view of the said finding recorded by the learned Trial Judge, the prayer for interim relief cannot be considered.

2 Prima facie, I am of the view that the plaintiffs have filed the suit for the purpose of claiming right, title and interest in respect of immovable property which

is admittedly situated beyond the limits of City of Bombay, Therefore, prima facie, section 16(d) of Code of Civil Procedure 1908 is applicable to the suit. The learned counsel appearing for the Appellant place reliance on proviso to section 16(f). Considering the relief claimed in prayer clause (b)of the plaint, the said proviso will not be of help to the Appellant. No case is made out for the grant of interim relief. Prayer for interim relief is rejected. Hearing of the appeal is expedited.

(A.S. Oka,J.)